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**From:** Faeth, Lisa

**Sent:** Mon 1/27/2014 4:52:08 PM

**Subject:** News Articles (For EPA Distribution Only)

## **BNA DAILY ENVIRONMENT REPORT ARTICLES**

### **Report on Chemical Testing Strategy Seeks to Cut Animal Use but Identify Harms**

Scientists and risk assessors do not agree on a definition of "toxicity pathway," yet they can specify attributes and criteria that illustrate ways toxicity pathways can be used to reduce animal testing while identifying ways chemicals...

### **Japan Proposes List of 200 Chemicals To Be Exempt From Reporting Requirements**

Japan's government has proposed a list of more than 200 chemicals to be exempted from reporting requirements because they are deemed to have no or low carcinogenic properties and cause no serious harm to fauna or flora....

### **Safer Chemical Ingredients List Expanded; Product Manufacturers Offered Tips**

The Environmental Protection Agency has added 50 chemicals to its Safer Chemical Ingredients List, bringing the total number of chemicals on the list to nearly 650. ...

### **Substances Added to REACH Lists For Restriction, Possible Phaseout in EU**

Sweden intends to submit a dossier proposing that the chemical 1,2-benzenedicarboxylic acid, dihexyl ester, branched and linear be listed as a "substance of very high concern" (SVHC) under the European Union's REACH law, according...

## INSIDEEPA.COM ARTICLES

### Planned New Jersey Suit Puts New Pressure On Regulators To Limit PFCs

A New Jersey municipality is planning to sue a chemical manufacturer to cleanup perfluorochemicals (PFCs) that have contaminated public drinking water wells there, adding to growing pressure on state and federal regulators to set regulatory standards for the currently unregulated class of persistent and toxic chemicals.

## GREENWIRE ARTICLES

### **W.Va. spill turns regulation fighter Manchin into crusader for chemical oversight**

Jason Plautz and Manuel Quiñones, E&E reporters

Within days of the Jan. 9 chemical spill that left 300,000 West Virginians without water, Sen. Joe Manchin was talking about what the government should do to make sure that wouldn't happen in his state again.

The Elk River spill exposed "laws that need to be changed," the Democrat said after he returned to Washington from West Virginia to start writing a bill that would toughen the regulation of chemical storage facilities near water supplies. He also said the spill should spur reform of the Toxic Substances Control Act of 1976 to give U.S. EPA more power to test and regulate chemicals in commerce.

Yesterday, Manchin called for the Freedom Industries plant where the leak of 4-methylcyclohexane methanol (MCHM) occurred to be razed.

"The first step to restoring confidence in our water system and ensuring West Virginians that their water is safe is to tear down Freedom Industry's facility and completely remediate the site," he said. "We need to start from scratch."

Those aren't exactly the usual talking points from a politician known for fighting off the Obama

administration's environmental initiatives, mainly to protect his state's coal industry.

Manchin's chemical storage regulation bill -- which he will introduce next week with fellow West Virginia Sen. Jay Rockefeller (D) and Environment and Public Works Chairwoman Barbara Boxer (D-Calif.) -- would set minimum standards for states to establish regulations on aboveground storage facilities near drinking water.

His measure is one of several introduced nationally and in West Virginia to increase enforcement of chemical storage and help states clean up after a spill. Manchin has said all are necessary.

But he's been reluctant to come down on the coal industry, where he says he'd prefer to see regulators keep their hands off. Environmentalists in his state see the chemical spill and mine discharges as part of the same water-fouling problem. The chemical spilled, they point out, is used by mining companies to clean up coal.

Bo Webb, a prominent opponent of mountaintop-removal coal mining, said he finds it interesting that Manchin is quick to call for more regulation of chemicals but finds increased oversight of coal mining an anathema.

"I think that he got put in a position that he had to do something, and this was a convenient thing to do to deflect it from coal," Webb said in an interview. "There couldn't be anything further from the truth."

MCHM is used by the coal industry in a process that often yields slurry ponds filled with billions of gallons of waste. Environmentalists have for years been fighting with companies and regulators about whether those waste ponds are secure.

"People need to understand the severe danger that these things pose, that these chemicals pose to everyone," Webb said. "So there's a real toxic catastrophe waiting to happen here in West Virginia."

Even though the chemicals industry has a significant footprint in West Virginia, the coal industry remains larger and more prominent. State employment records show that chemicals companies employ more than 10,000 West Virginians, about half of coal's total workforce.

Manchin has bucked the coal industry before. He has consistently supported new mine safety legislation in the wake of the 2010 Upper Big Branch explosion that killed 29 West Virginia miners. The mining lobby maintains a new law is not needed.

And last year Manchin, who portrays himself as a common-sense lawmaker who seeks common ground, took on the National Rifle Association by supporting some gun control measures. The group promptly retaliated.

Helping him now is a chemicals industry that's not opposing new regulation. "When an incident occurs, we don't like it, either. We drink the water as well," said Kevin DiGregorio, executive director of the Chemical Alliance Zone Inc., a West Virginia industry group.

DiGregorio recalls how the petrochemicals industry started in West Virginia with Union Carbide and the first commercial ethylene plant. Chemicals now rank somewhere between sixth and 10th in terms of state gross domestic product.

"We want to be a positive force and be proactive," DiGregorio said in an interview. "We try to do things right."

### **TSCA reform**

At the national level, the American Chemistry Council has backed TSCA reform (albeit in a bill that the left has criticized for not doing enough). In a statement, the trade group said it was examining options with lawmakers and regulators for enhanced safety measures.

Last April's explosion at a fertilizer plant that killed 15 people and injured 160 in West, Texas, brought new attention to the outdated security laws, and industry groups have been involved in discussing solutions giving federal agencies more oversight.

Although industry groups may not be backing the strongest regulatory solutions, observers said the fact that they are at least using rhetoric on reform gives lawmakers room to work.

The West Virginia spill was not Manchin's first foray into TSCA reform -- in fact, he's credited with bringing Sens. David Vitter (R-La.) and the late Frank Lautenberg (D-N.J.) together to work on a bipartisan bill, and he's testified in favor of the reform effort. The bill is currently being reworked to try to address concerns from Democrats and green groups that it is too weak and would not protect stronger state laws.

Manchin's role as a peacemaker in the initial TSCA talks, which moved Lautenberg away from the more liberal "Safe Chemicals Act" that industry opposed, may have also given him a longer leash with industry. One public health lobbyist who requested anonymity said the deal was "such a technical coup" that Manchin likely had some cover with industry groups.

"Manchin can also be made comfortable that there are some other Democrats to his left on this," the lobbyist said, referring to both the security bill and TSCA.

In a statement, the American Chemistry Council said it has a "long-standing working relationship" with Manchin.

"We fully support efforts by Senator Manchin and others to gather the facts and address concerns raised by the unfortunate events in West Virginia," ACC said. "We hope to work with Senator Manchin to address several concerns with the legislation he plans to introduce, based on the information currently available about it."

The group didn't discuss its concerns with the bill, of which legislative text has not been released.

Environmentalists, who spoke on background for this story, have problems with the TSCA legislation as written and question whether his legislation to address the recent spill will have teeth. They wonder whether the bill will be a sincere regulatory step or an effort to appease West Virginia residents calling for change while at the same time protecting the chemicals industry.

For example, it's unclear whether the legislation will give EPA the authority to intervene in state regulatory decisions. A one-page fact sheet distributed by the sponsors does not mention any EPA oversight of the security plans, and the offices of the sponsor did not respond to requests for clarification. They take solace, however, in Boxer's involvement.

Manchin has gotten strong support from ACC in the past. His 2010 Senate campaign netted a \$5,000 donation from the lobbying group's PAC, and the group has given him \$11,000 this cycle, when he is not facing a campaign.

The group ran [television ads](#) this summer praising him for his "leadership on issues that encourage strong domestic energy policy, support small businesses and promote rational, science-based chemical regulation," part of a series of ads for several Capitol Hill allies.

Still, that support pales to what Manchin has brought in from the powerful coal lobby. According to data from the Center for Responsive Politics, the mining industry has been Manchin's second-biggest supporter (behind lawyers) with \$667,548 in donations this cycle alone.

West Virginia's House delegation, meanwhile, has not sought out regulations with the same gusto -- neither Democrat Nick Rahall nor Republicans Shelley Moore Capito and David McKinley have talked about enhancing security regulations. Capito told *E&E Daily* she believes in "good regulations and enforcement of regulations, but not overregulation" (*E&E Daily*, Jan. 15).

The anti-regulatory sentiment in the House -- Speaker John Boehner (R-Ohio) even said in the days after the West Virginia spill the problem did not lie with lax regulations but rather lax regulators -- likely means the security reform could stall if it passes the Senate (*Greenwire*, Jan. 14).

In response to questions about Boehner's views, Manchin told *The Huffington Post*: "It didn't happen in Ohio, right?"

## **Scientists fault EPA, CDC for failing to answer questions on W.Va. spill**

Jason Plautz, E&E reporter

West Virginia scientists are criticizing U.S. EPA and the Centers for Disease Control and Prevention for putting up "barriers" between scientists and the public in the aftermath of a chemical spill this month that left 300,000 without tap water for days.

"Your agencies have repeatedly failed to adequately respond to questions from the public and the press," say 24 area scientists in a [letter](#). "We deserve to be told what is known -- and what is not known -- about the risks the chemical poses to human health as the disaster unfolds."

"Only an informed citizenry can make informed choices," the letter continues.

EPA and CDC have been repeatedly criticized for their lack of public engagement after the spill of the coal-scrubbing chemical 4-methylcyclohexane methanol (MCHM) into the Elk River near Charleston. Because MCHM was not classified as hazardous under the 1976 Toxic Substances Control Act, there's been very little testing of the chemical and there's no data on the dangers of long-term exposure or its effects on humans.

Earlier this week, the Society of Professional Journalists and Society of Environmental Journalists blasted CDC and EPA for seeming "to be evading the news media, and by extension the public" (*E&ENews PM*, Jan. 21).

CDC has also been criticized for declaring Jan. 13 that water was safe to drink after testing revealed levels of MCHM below 1 part per million, only to advise three days later that pregnant women should still avoid tap water. The agency was criticized for not immediately clarifying its decision and for a press call that was deemed "incomplete" by the journalism societies.

The scientists' letter, sent today to CDC Director Tom Frieden and EPA Administrator Gina McCarthy, was orchestrated by the Union of Concerned Scientists' Center for Science and Democracy and calls for CDC and EPA scientists to be made more available to the public and press.

The letter was signed by scientists from West Virginia University, Marshall University, the National Institute for Occupational Safety and Health, and other institutions.

### **CSB testifies for state legislators**

Also this morning, the U.S. Chemical Safety Board gave the West Virginia Legislature an update on its investigation into the spill. Appearing before the Joint Legislative Oversight Commission hearing in Charleston, CSB Chairman Rafael Moure-Eraso told legislators that the board would be investigating the siting of chemical facilities near drinking water.

Saying this was CSB's third visit to West Virginia's Kanawha Valley, which has a number of large chemical plants and storage facilities, Moure-Eraso promised a full investigation of the leak and recommendations that could address siting, leak detection and safe storage of chemicals. CSB investigator Johnnie Banks said the board had already submitted document requests for site drawing, tank and dike specifications and would be looking at whether a secondary containment wall was effective to prevent leaks.

Banks said the board -- which does not have regulatory power and can only issue recommendations -- saw the spill as a "warning to other communities."

"We want to prevent it from happening again," Banks said.

### **Lawmakers seek answers from Freedom president**

Questions, meanwhile, continue to swirl about Freedom Industries and what chemicals the company was storing in the tank.

Reps. Henry Waxman (D-Calif.) and Paul Tonko (D-N.Y.) wrote to company President Gary Southern asking for information on the chemicals at the plant and what the company's financial responsibility for the cleanup would be in light of the company's recent bankruptcy filing.

"We are concerned that when all is said and done, taxpayers will be left to pay for any long-term costs of cleaning up contamination from your Elk River facility," the Democrats wrote yesterday. They're requesting more information by the end of the month.

This week in a letter to the West Virginia Department of Environmental Protection, Southern clarified that the tank in question was storing crude MCHM and "PPH stripped," a mixture of two other chemicals added to the MCHM as an extender. There's little information available on PPH, which is believed to be less toxic and made up 7.3 percent of the mixture in the tank.

[Click here](#) to read the scientists' letter.

## **CHEMICAL WATCH ARTICLES**

### **German institute releases software for hazardous substances guidance**

Germany's Federal Institute for Occupational Safety and Health (Baua) has released a free software version of its guidance on the Simple Scheme for Hazardous Substances (EMKG) ([CW 6 November 2013](#)). The programme allows users to assess potential dangers arising from skin contact with, or inhalation of, hazardous substances in the workplace.

### **Further Information**

[EMKG software \(in German\)](#)



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### **Canada releases draft assessment for two substances**

Environment Canada has released for public comment draft screening assessments for phenol, 2-(2H-benzotriazol-2-yl)-4,6-bis(1,1-dimethylpropyl), or BDTP, and ethylene.

For BDTP, the draft assessment concludes that the substance meets the criteria under paragraph 64 (a) of Canadian Environmental Protection Act (Cepa) “as it is entering or may enter the environment in a quantity or concentration or under conditions that have or may have an immediate or long-term harmful effect on the environment or its biological diversity.”

It also concludes that BDTP meets the criteria for ” persistence and bioaccumulation potential” as set out in the Persistence and Bioaccumulation Regulations.

The draft assessment report for ethylene concludes that it does not meet criteria set out in section 64 of Cepa and does not meet the criteria for persistence and bioaccumulation potential.

### **Further Information**

[BDTP](#)

[Ethylene](#)

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### **US agency extends comment period on silica rulemaking**

The US Occupational Safety and Health Administration (Osha) has extended to 11 February from

27 January, the comment period on its notice to lower the permissible exposure limit (PEL) of crystalline silica ([CW 27 August 2013](#)).

The agency is proposing to reduce the PEL to 50 micrograms of respirable crystalline silica per cubic metre of air (50µg/m<sup>3</sup>) in all relevant industry sectors. The current PEL for quartz (the most common form of crystalline silica) in general industry is 100µg/m<sup>3</sup>, while in construction and shipyards it is 250µg/m<sup>3</sup>.

Public hearings on the proposed rule are scheduled to begin on 18 March.

## Further Information

[Release](#)

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## OTHER ARTICLES

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	<a href="#">Toxic amulets, charms won't work, says group</a> Manila Standard Today - A WATCHDOG on Sunday questioned the use of lead and other <b>toxic</b> ... had found that some amulets and charms contained <b>chemicals</b> belonging to ...

